

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL ANTHONY ABELS,
Plaintiff,
v.
KRISTEN SKIPWORTH *et al.*,
Defendants

CASE NO. C09-5572RBL/JRC
ORDER TO SHOW CAUSE

The Court has reviewed plaintiff's application to proceed in forma pauperis and the proposed complaint. In the proposed complaint plaintiff states he has only filed one prior case. Review of court documents shows plaintiff has previously filed eight other actions in this district. Those actions are:

1. Abels v. Washington State, 90-cv-1655JCC
2. Abels *et al.* v. Grey *et al.*, 98-cv-1618BJR
3. Abels v. ISRB *et al.*, 04-cv-2259JLR
4. Abels v. Clarke *et al.*, 07-cv-5303RBL
5. Abels v. Van Boening, 08-cv-0764JCC
6. Abels v. Van Boening, 08-cv-1118RAJ

1 7. Abels v. Sinclair *et al.*, 09-cv-0539RSL/JPD

2 8. Abels v. Sinclair, 09-cv-0656TSZ/JPD

3 A district court has wide discretion in deciding whether to grant an inmate the privilege
4 of proceeding *in forma pauperis*. O'Loughlin v. John Doe, 920 F2d. 614 (9th Cir. 1990). Here,
5 Plaintiff's lack of candor in and of itself can be considered as grounds for denial of *in forma*
6 pauperis status.

7 In deciding whether to grant or deny the privilege one of the items a court may consider
8 is an inmate's prior filings. O'Loughlin v. John Doe, 920 F2d. 614 (9th Cir. 1990). Mr. Abels
9 has filed six habeas corpus petitions. These petitions have been addressed on the merits in some
10 instances, but are now routinely being dismissed as second or successive petitions. One petition,
11 Abels v. Sinclair, 09-cv-0539RSL is currently pending.

12 Plaintiff has filed two prior civil rights actions. The first action, Abels et al v. Grey et al,
13 98-cv-1618BJR, is of no concern to the court. The second action, Abels v. Clarke, 07-cv-
14 5303RBL, was dismissed June 8, 2009. The appeal was dismissed August 21, 2009. The
15 allegations in Abels v. Clarke, evolved over the course of the litigation. Ultimately, the sole
16 remaining issue was whether plaintiff was returned to prison from work release in retaliation for
17 other complaints he filed, or because of a complaint by a citizen that plaintiff was harassing her
18 and she felt concerned for her safety (Able v. Clarke, 07-cv-5303RBL Dkt. # 135).

19 This return to prison in 2007 is the central issue in the action plaintiff is attempting to file
20 today. Thus, it appears plaintiff has litigated and lost the issue he is attempting to litigate today.

21 Plaintiff is now ORDERED TO SHOW CAUSE why this court should not recommend
22 the motion for *in forma pauperis* be denied for his failure to inform the court of his prior filings

1 and because the issue he is attempting to litigate has already been decided adversely to his
2 position.

3 A response from plaintiff will be due on or before **October 23, 2009**. Failure to file a
4 response, or an inadequate response, will result in a Report and Recommendation that *in forma*
5 *pauperis* status be denied.

6 DATED this 28th day of September, 2009.
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10 J. Richard Creatura
11 United States Magistrate Judge
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